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ABSTRACT

Although charter schools are rapidly becoming an integral part of the public-school landscape, much remains unknown about them. This paper reports on the findings of a descriptive-research study that comprised an analysis of U.S. charter-school statutes. The focus of the investigation was on equity in the areas of student recruitment, admission and enrollment, transportation, and information dissemination. Research was guided by seven questions that addressed the extent to which charter-school statutes foster equality of student access to their schools. Each state's charter-school statute was examined to determine the extent to which it included specific provisions with regard to: (1) providing access to underrepresented student groups; (2) admission policy guidelines or requirements; (3) geographic boundary requirements; (4) denial of student requests for admission; (5) provisions for when enrollment exceeds capacity; (6) student transportation policy guidelines or requirements; and (7) policy guidelines or requirements for dissemination of charter-school information. The findings suggest that states' statutes do an adequate job of ensuring that underrepresented groups have access to charter schools and that students' civil rights are not violated by charter schools. Virtually all, save 2, of the 36 statutes reviewed contained some provision with regard to ensuring that underrepresented groups (the economically disadvantaged, minority, and special-need students) have the same access as other students to charter schools. (Contains 11 references.) (DFR)

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HOW EQUAL IS ACCESS TO CHARTER SCHOOLS?

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Abstract

Charter schools are rapidly becoming an integral part of the public school landscape. However, although research has provided some information about charter schools, much remains unknown about them. This paper presents the findings of a descriptive research study that comprised an analysis of U.S. charter school statutes. Investigative focus was on equity in the areas of student recruitment, admission and enrollment, transportation, and information dissemination. The research was guided by seven questions that addressed the extent to which charter school statutes foster equality of student access to charter schools. The methodology consisted of an analysis of each state's charter school statute to determine the extent to which it included specific provisions with regard to (1) providing access to underrepresented student groups; (2) admission policy guidelines or requirements; (3) geographic boundary requirements; (4) denial of student requests for admission; (5) provisions for when enrollment exceeds capacity; (6) student transportation policy guidelines or requirements; and (7) policy guidelines or requirements for the dissemination of charter school information.

HOW EQUAL IS ACCESS TO CHARTER SCHOOLS?

A charter school is an autonomous public school of choice that may be created and operated by teachers, school administrators, business organizations, parents, community groups, universities, or other interested parties. The premise is that charter school operators will, through their charters, commit to greater accountability for enhanced student performance in exchange for greater autonomy. Charter schools are different from other public schools in that they operate on the basis of their charter; i.e., a contract with a state or local agency that provides the school with public funds for a specified time. This contract frees charter schools from a number of regulations that otherwise apply to public schools. In exchange, the charter schools are accountable for improving student performance and achieving goals set out in the charter. Since 1991, there has been rapid growth both in the number of states with charter school legislation and in the number of charter schools opening in those states. In 1999 alone, 421 charter schools opened (U.S. Department of Education, 2000); and by September 1999, 36 states and the District of Columbia had charter school laws, 32 of which (including the District of Columbia) currently have charter schools in operation.

Research has provided some information about charter schools. For example, most are small, newly created schools with atypical grade configurations, which were designed to realize an alternative vision of schooling. Almost half of U.S. charter schools are located in three states: California, Michigan and Arizona. While charter schools tend to enjoy considerable autonomy, particularly newly created schools, insufficient resources continues to be the greatest challenge to charter school implementation, although the percentage of schools citing this as a challenge is less than in previous years.

Several legal issues have emerged in the literature with regard to the consequences of autonomy, specifically whether or not charter schools are under sufficient state control so as to be considered state actors in equal protection litigation challenging the policies or actions of individual charter schools (Huffman, 1998). A second emerging area of concern is whether or not charter schools truly provide equal access to all students, particularly in the areas of student admission and enrollment; geographic requirements or restrictions; student recruitment; student transportation; and family access to information about the charter schools.

States play a critical role in defining the structure and operation of charter schools, as certain authority is granted to them by state statutes. This generally includes the authority to negotiate and contract for facilities and services; acquire real property; receive and disburse funds; incur temporary debt; operate as a business or corporation (so long as it does not conflict with charter school legislation); and adopt a name and corporate seal. Although charter school legislation varies from state to state, charter schools throughout the nation have some general requirements in common. Charter schools cannot charge tuition; they must be nonsectarian; they are subject to federal and state laws prohibiting discrimination; and they must comply with health and safety laws. All state statutes outline the major components of the charter application, the most common of which include a statement of educational mission; description of governance and organizational structure; a statement of academic and other learning goals and objectives; a description of curriculum; and a description and examples of assessments to be used to measure academic achievement. Applicants are also generally asked to provide their personnel policies and the details of their transportation plan. The charter

school statutes of some states require that applicants also include information about how the school will meet the needs of specific student groups. In addition, applicants for charter schools are generally asked to include a description of admission procedures; copies of the annual budget and financial plan, including all sources of funding and terms of fiscal audits; evidence of adequate community support; a description of legal liability and applicable insurance coverage; an agreement to provide an annual report to various parties; a description of support services; an explanation of disciplinary procedures; and a description of programs to encourage diversity in the student body, including attendance by at-risk students and other underrepresented groups. Moreover, they are asked to identify any regulations they wish to be waived; include a school calendar and school day schedule; as well as a description of the age or grade range of students to be enrolled.

There are over 1600 charter schools currently in operation nationwide (which includes multiple branches of schools operating under one charter) educating over 250,000 students. Although this figure represents a small percentage of students enrolled in U.S. pubic schools, it is still significant in terms of its potential impact on American public school education. An early concern about charter schools was that they would be elitist schools that would lure the best and brightest students away from traditional public schools and serve a lower proportion of students of color than other public schools (Huffman, 1998). This concern has been echoed by critics who fear that limited state oversight will result in stratification of public schools by race and class, and by others who have expressed concern regarding racial and ethnic clustering that is occurring at some charter schools (Taebel, et. al, 1998). Research also indicates that in the aggregate, charter schools are serving a diverse student population, although concerns remain with

respect to maintaining a balance (U.S. Department of Education, 2000; Taebel, et. al, 1998). These concerns merit attention because the research literature indicates that it is the student population, rather than the school, that affects student learning and that the composition of a school's ethnic and social class impact individual student learning quite significantly (Godwin, Kemerer & Martinez). Nationwide, charter schools have similar demographic characteristics to students in all public schools (U. S. Department of Education, 1999; U.S. Department of Education, 2000). However, charter schools in nine states serve predominantly minority student populations, while those in three states serve predominantly Caucasian student populations. Therefore, research that addresses equal access issues is critical.

This legal research study comprised an analysis of U.S. charter schools laws. Specifically, it investigated the extent to which equality in student access to charter schools is being supported in U.S. charter school statutes. It is part of ongoing research efforts in the area of educational reform, specifically, charter schools. The investigative focus was on equity in the areas of student recruitment, admission and enrollment, transportation, and information dissemination as framed by the following research questions:

1. Do charter school statutes provide regulation or guidance for ensuring that underrepresented student groups; e.g., economically disadvantaged, minority and special needs students, have equal access to the charter school?
2. Do charter school statutes provide regulation or guidance in how admission policies should be developed, or what they should include?

3. Do charter school statutes require that charter schools designate geographic boundaries in their charters? If so, do these statutes provide regulation or guidance regarding how designation of boundaries might be accomplished without violating equal protection rights?
4. Do charter school statutes allow for denial of admission to certain students?
5. Are there statutory requirements or guidelines for the establishment of waiting lists; i.e., what happens if the school is oversubscribed?
6. Are charter schools required to provide free transportation to students who attend them?
7. Is statutory guidance provided to ensure that all families have access to information about the charter school and the educational opportunities provided?

ANALYTICAL APPROACH

Data Collection

The sources of data for this research comprised U.S. charter school statutes for states in which charter school legislation currently exists. The charter school statutes for 36 states (including the District of Columbia) were collected electronically, using respected legal search engines (FindLaw and Lexis). In an effort to reduce awkwardness and confusion in reporting the findings, the District of Columbia is, henceforth, referred to as a state, rather than as a distinct entity. There was difficulty in obtaining the statute for Ohio within the timeline for this study; therefore, data for this state are not included.

Data Analysis

A master data matrix, including all 36 states, was constructed using the seven research questions as the investigative framework. The research questions formed the

column headings, which comprised the broad analytical units. Next, a content analysis was performed on the charter school statute for each state, and the provisions and statutory citations were entered into the matrix for each research question to document the extent to which each statute includes specific provisions addressed in the research questions. A notation was also made if no specific statutory provision was found.

To organize the statutory data and facilitate the analysis, pattern matching was used on the entries for each column; i.e., for each research question of the master matrix, in order to identify commonalities, which formed the analytical units. Separate matrices were then constructed for each research question using these broad units of analysis as the column headings. For some research questions, it became necessary to further divide the broad analytical units, using letter designations to indicate unique provisions, until all applicable statutory provisions had been entered into a category. An X was placed in the appropriate matrix cell to indicate the presence of all units. Otherwise, a letter was entered to indicate a specific unit addressed in a state's statute. As in the master data matrix, a notation was also made in the cell if a state's statute contained no specific provision. This process was continued until the statutory provisions for each state had been categorized for analysis.

Finally, working from left to right, the number of states whose statutes include provisions to address the specific analytical units was tallied for each column. In this manner, all statutory provisions for charter schools were tallied to form the basis of the analysis for comparing the states for each research question.

COMPARING THE EXTENT TO WHICH U.S. CHARTER SCHOOL LAWS FOSTER EQUALITY OF STUDENT ACCESS TO CHARTER SCHOOLS

Student Admission, Recruitment and Enrollment

Ensuring Access to Underrepresented Student Groups

U.S. charter school statutes were first analyzed to determine if they provide regulation or guidance for ensuring that underrepresented student groups; e.g., economically disadvantaged, minority and special needs students, have equal access to the charter school. To make the data more manageable and to facilitate the analysis, the provisions were condensed into six themes as indicated in Table 1.1.

Table 1.1 General Themes in Charter School Statutes Regarding Provisions for Underrepresented Student Groups

Theme	Statutory Provision
1.General discrimination and civil rights	(a) requirement of compliance with state and federal laws regarding children with disabilities and discrimination and civil rights (b) requirement that admission not be denied based upon race, ethnicity, creed, color, national origin, gender, sexual orientation, age, proficiency in the English language, religion, disabling condition, ancestry, or marital status (c) requirement that charter schools not be elitist, foster a segregative effect, or constitute efforts to circumvent court-ordered desegregation plans
2. Racial or economic status	(a) requirement that admission not be denied based upon income level, or that it cannot result in economic isolation (b) requirement that the charter school student population reflect the racial and socio-economic composition of the school district in which the charter school is located
3. Academic/intellectual or athletic ability	requirement that admission not be limited on the basis of a student's intellectual ability, athletic ability, aptitude or academic achievement or special needs status

Table 1.1 General Themes in Charter School Statutes Regarding Provisions for Underrepresented Student Groups (Continued)

Theme	Statutory Provision
4. Information access	requirement that information dissemination efforts target low-income families and communities and students of color
5. Transportation	requirement of the inclusion of a plan for addressing the transportation needs of low-income and at-risk students
6. At-risk and special needs	(a) giving preference to charter schools that serve 75 percent or more minority student populations (b) requirement to demonstrate efforts to accommodate the needs of at-risk students, students requiring special education services, or focus on students with special needs such as students who have dropped out of school, disruptive students and learning disabled students

Thirty-four of the 36 (94.4 percent) U.S. charter school statutes reviewed contain these minimum provisions. However, two states (Alaska and Utah – 5.56 percent) have no specific provisions in their charter school statutes in this regard.

Discrimination and Civil Rights

Twelve of the 36 state charter school statutes reviewed (33.3 percent) contain a stated requirement that charter schools must comply with state and federal laws regarding children with disabilities or discrimination and civil rights. The charter school statutes of four states (Arizona, Louisiana, New Hampshire and New York—11.1 percent) include requirements for compliance with state and federal laws in both of these areas. Louisiana's statute also stipulates that charter schools cannot discriminate among potential students in violation of any state or federal law (La. Rev. Stat. Title 17 § 3391 (B) (3)). Missouri, Oklahoma and Oregon (8.3 percent) require compliance with regard to children with disabilities, while Georgia, Illinois, Nevada, South Carolina, and Virginia

(13.9 percent) require compliance regarding discrimination and civil rights. Although it does not state specifically that a charter school must comply with state and federal laws in these two areas, Oregon's statute requires that charter school proposals include the arrangements for special education and related services for disabled students who may attend the school (Oreg. Rev. Stat. § 338.045 (2)(r)(1999)).

Almost half (17 states -- 47.2 percent) of the state statutes reviewed contain provisions that prohibit denial of admission to charter schools on the basis of all, or several, of the following criteria: race, ethnicity, creed, color, national origin, gender, sexual orientation or age. Only the statutes for Arizona and Massachusetts (5.6 percent) include all of these criteria. Twelve states[1] (33.3 percent) address all of the criteria except sexual orientation and age. Rhode Island's charter school statute also requires that a charter school include a program to encourage the enrollment of a diverse student population. It stipulates that a charter school reflect the student population of the district, including but not limited to special education students, at-risk students, students eligible for free and reduced cost lunch, and limited English proficient students. It further provides that charters will not be authorized to schools that do not include students who are members of the aforementioned groups in a combined percentage, which is at least equal to the combined percentage of those student populations enrolled in the school district as a whole (R.I. Gen. Laws @ 17-77-4(b)(10) (1998)). The charter school statutes for Pennsylvania and Wisconsin (5.6 percent) address all of the criteria except age. Mississippi's statute addresses race, color, creed and national origin only; Nevada's statute includes only race, gender and ethnicity; North Carolina's statute addresses only

[1] These states are Arizona, Delaware, the District of Columbia, Illinois, Massachusetts, New Mexico, New York, Pennsylvania, Rhode Island, South Carolina, Virginia, and Wisconsin.

ethnicity, race, creed, national origin and gender; and Wyoming's statute includes only ethnicity, national origin and gender.

Fifteen (41.67 percent) states' charter school statutes prohibit the use of one or more of the following as a basis for denial of student admission: English language proficiency, religion, disabling condition, ancestry, or marital status.[2] Table 1.2 presents the number of states and percentages by criteria.

Table 1.2. Number and Percentage of State Charter School Statutes Prohibiting Certain Admission Criteria (N=36)

Prohibited Criteria	Number of States	Percentages*
English proficiency	3	8
Religion	8	22
Disabling condition	12	33
Ancestry	9	25
Marital status	2	6

*All percentages have been rounded to the nearest whole number. The percentages do not total 100 percent, as the statutes of 13 states include more than one of these criteria.

Among these criteria, one-third of U.S. charter school statutes include a provision that a student's admission to a charter school admission cannot be denied based upon the student's disabling condition, one-fourth of states stipulate that admission cannot be denied on the basis of ancestry, and slightly less than one-fourth of states' statutes stipulate that religion cannot be used as a reason for denial of admission to charter schools. Less than 10 percent of these states include a provision that English proficiency and marital status cannot be used as admission criteria by charter schools.

Some statutes include provisions that charter schools can neither be elitist nor foster segregation. Two states (Arkansas and Michigan -- 5.56 percent) require that

[2] These states are Arizona, Colorado, Delaware, the District of Columbia, Illinois, Massachusetts, Nevada, New Mexico, New York, North Carolina, Pennsylvania, South Carolina, Virginia, Wisconsin, and Wyoming.

charter schools cannot have a segregative effect; five states—Colorado, Delaware, Nevada, North Carolina and Virginia--(13.89 percent) require that charter schools abide by court-ordered desegregation plans; and one state (Hawaii --- 2.78 percent) prohibits charter schools that foster elitism.

Race or Economic Status

Fourteen states (38.9 percent) include a statutory provision that addresses race or economic status.[3] Connecticut is the only state whose charter school statute includes provisions that address both areas. Arizona's statute only addresses economic status and prohibits the use of income level as a criterion for admission decisions. Thirteen (36.11 percent) statutes include a requirement that the charter school student population reflect the racial or socio-economic composition of the school district in which the charter school is located, or that efforts must be made to ensure student diversity.[4] Among these states, the majority of them (10 of 13—77 percent, which is slightly more than one-fourth of the total number of states 10 --27.8 percent) include a provision that student populations reflect the racial composition of the host district. In Connecticut, the effect of a proposed charter school on the reduction of racial, ethnic and economic isolation in the region in which it is to be located, the regional distribution of charter schools in the state and the potential of overconcentration of charter schools within a school district or in contiguous school districts are taken into consideration before a charter is granted (Conn. Gen. Assembly § 10-66bb (c)(1999)). South Carolina's statute requires that the student population of a charter school cannot differ from that of the school district by

[3] These states are Arizona, California, Connecticut, Florida, Kansas, Louisiana, Nevada, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Wisconsin and Wyoming.

more than 10 percent, and the charter must describe how the school will ensure this (S.C. Code of Laws, Title 59, Ch. 40 § 59-40-50(6)). The statutes of both Wisconsin and Wyoming require that the charter petition include a description of the means by which the school will achieve a racial and ethnic balance among its students that is reflective of the school district population (Wis. Stat. @ 188.40(lm)(b)(9)(1998)) or the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted (Wyo. Stat. Art. 2 § 21-3-203(d)). Three states' statutes (3 of 13—23.08 percent, and which is 8.33 percent of the total number of state statutes reviewed) require that the student population reflect the socio-economic composition of the host district (Kansas, Louisiana and Rhode Island).

Three states (Connecticut, New Hampshire and New Jersey) include a provision that charter schools ensure range and diversity among charter schools. New Jersey's statute also requires that a charter school's admission policy, to the maximum extent practicable, seek the enrollment of a cross-section of the community's school age population including racial and academic factors (N.J. Permanent Stat. § 18A:36A-8(e)).

Academic/Intellectual or Athletic Ability

The charter school statutes of ten states (27.8 percent) include provisions that prohibit the denial of charter school admission on the basis of a student's intellectual ability, athletic ability, aptitude or academic achievement, or special needs status.[5] Four of these states--District of Columbia, New York, North Carolina and Wyoming—(11.11 percent) include a provision prohibiting the use of intellectual ability; six include a

[4] These states are California, Connecticut, Florida, Kansas, Louisiana, Nevada, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Wisconsin, and Wyoming.

provision prohibiting the use of athletic ability and/or aptitude and academic achievement--Arizona, District of Columbia, Massachusetts, New York, North Carolina; and Wyoming—(16.67 percent); five prohibit the use of a student's special needs status as admission criteria--District of Columbia, Massachusetts, New York, North Carolina, Wyoming—(13.89 percent). The District of Columbia's statute includes provisions for all of the factors, and New York and North Carolina include all but special needs status in their charter school statutes.

Both Louisiana and New Hampshire allow the use of academic or intellectual ability in admission or enrollment decisions. Louisiana's statute allows college preparatory charter schools to use achievement of a certain academic record in admission decisions (La. Rev. Stat. Title 17 § 3991 (B)(3)), while New Hampshire's statute permits charter schools to select students on the basis of aptitude or academic achievement so long as it is related to the school's academic goals (N.H. Rev. Stat. Title 15, @ 194-B:9(I)(c)(2)(1999)).

Access to Information

Minnesota is the only state whose charter school statute addresses information dissemination with regard to underrepresented groups. Although the statute does not include a specific requirement in this regard, it stipulates that information dissemination efforts must target low-income families and communities, and students of color (Minn. Stat. § 124D.10, Subd. 19(1998)).

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[5] These states are Arizona, Colorado, the District of Columbia, Illinois, Louisiana, Massachusetts, New York, New Hampshire, North Carolina, and Wyoming.

Transportation

Illinois is the only state whose charter school statute addresses student transportation in the context of ensuring that underrepresented groups have access to the charter school. Its statute requires that charter school proposals include a description of how the charter school plans to meet the transportation needs of low-income and at-risk students (105 Ill. Compiled Stat. § 5/27A-7(13)).

Students At-Risk or With Special Needs

Thirteen states (36.11 percent) include provisions for meeting the needs of at-risk students or those in special circumstances.[6] For example, Connecticut charter school statute provides that preference be given to applicants for charter schools that will serve students who reside in a district in which 75 percent or more of the enrolled students are members of racial or ethnic minorities. In granting the charter, the state's board of education considers the effect of the proposed charter school on the reduction of racial, ethnic and economic isolation in the region in which it is to be located, the regional distribution of charter schools in the state and the potential of over concentration of charter schools within a school district or in contiguous school districts (Conn. Gen. Assembly § 10-66bb(c)(1999)). Nevada's statute allows for dedicated charter schools. Its statute provides that a charter school may be formed that is dedicated to providing educational services exclusively to students with disabilities, who pose such severe disciplinary problems that they warrant an educational program specifically designed to serve a single gender and emphasize personal responsibility and rehabilitation, or who are

[6] These states are Colorado, Connecticut, Delaware, the District of Columbia, Florida, Idaho, Louisiana, Michigan, Missouri, Nevada, New York, Texas, and Wisconsin.

at risk (Nev. Rev. Stat. § 386.580(4)(1999)). In Texas, an unlimited number of open-enrollment charter schools may be authorized by the state's board of education for which at least 75 percent of the prospective student population will be students who have dropped out of school or are at risk of dropping out of school (Tex. Educ. Code § 12.1011(2)(2000)). In Wisconsin, preference may be given under certain conditions to charter schools that will serve at-risk students (Wis. Stat. @ 188.40(2r)(3)(d)(1998)). Connecticut's statute also provides that in order to reduce racial, ethnic and economic isolation, a local or regional board of education may offer programs or use methods such as interdistrict magnet school programs; charter schools; interdistrict after-school, Saturday and summer programs and sister-school projects; intradistrict and interdistrict public school choice programs; interdistrict school building projects; interdistrict program collaboratives for students and staff; distance learning through the use of technology; and any other experience that increases awareness of the diversity of individuals and cultures (Conn. Gen. Assembly § 10-226h(a)(1999)).

The charter school statutes for four states (Colorado, Delaware, Louisiana and Missouri—11.11 percent) require a demonstration of efforts to accommodate the needs of at-risk students. Missouri gives priority to applications for charter schools oriented to high-risk students and to the reentry of dropouts into the school system. Sponsors who grant three or more charters are required to grant at least one-third of the charters to schools that actively recruit dropouts or high-risk students as their student body and address the needs of dropouts or high-risk students through their mission, curriculum, teaching methods, and services (Mo. Rev. Stat., Ch. 160 § 160.405.2(4)(1999)).

Two states (Florida and Idaho) include provisions for students requiring special education services. Florida's statute includes a provision that allows enrollment to be limited to target students at risk of dropping out of school or academic failure as well as exceptional education students. It further provides that students with handicapping conditions and students served in English or Speakers of Other Languages programs will have an equal opportunity of being selected for enrollment in charter schools (Fla. Stat. Title XVI § 228.056(9)(a)(8)(1999)). Idaho's statute requires that charter school petitions include the manner by which special education services will be provided to students with disabilities who are eligible pursuant to Individuals with Disabilities Education Act (IDEA) (Idaho Stat. § 33-5205(3)(q)).

The statutes for three states--District of Columbia, Michigan and New York—(8.33 percent) include focus on students with unique educational needs. For example, the District of Columbia's board of education gives strong preference to applications that focus on student with special needs, such as students who have dropped out of school, disruptive students, and learning disabled students (D.C. Code, Ch. 28 § 31-2811(a)(3)). Michigan's statute provides that charters (public school academy contracts) are issued after several things have been taken into consideration, including the student population to be served by the school (Mich. Rev. School Code, Act 451 of 1976, Ch. 380 § 503(1)). It further stipulates that a public school student enrolled in grades K – 12, who is in educational difficulty or is at risk of falling seriously behind other students of his/her age level, of not being advanced in grade level, or of dropping out or being expelled from school may be served by a chartered educational clinic (Mich. Rev. School Code, Act 451 of 1976, Ch. 380 § 505a). New York's statute allows for the creation of single-

gender charter schools and charter schools designed to provide expanded learning opportunities for students at risk of academic failure (N.Y. State. Consolidated Laws, Art. 56 § 2851(2)(a)).

Admission Policy Guidelines

The statutes were next analyzed to determine if they provide regulation or guidance for how admission policies should be developed, or what they should include. The statutory provisions that address admission policies were divided into six major categories: statutes that (1) contain no specific provision; (2) allow charter schools to limit student admission; (3) require the admission of all students; (4) include admission preference criteria; (5) specify admission criteria prohibitions and (6) provide specific admission requirements that must be included.

State Statutes Including No Provisions With Regard to Charter School Admission Policies

Eight of the 36 (22.2 percent) U.S. charter school statutes reviewed contain no specific provision with regard to admission or enrollment policies.[7] In nine states—Arizona, Delaware, Florida, Georgia, Massachusetts, Missouri, Nevada, New Hampshire, and South Carolina—(25 percent), there is no specific statutory requirement that the admission policy be stated in the charter, petition or application.

Although Illinois statute contains no specific provision with regard to admission, it does provide that charter schools cannot discriminate (105 Ill. Compiled Stat. § 5/27A-

[7] These states are Arkansas, Hawaii, Illinois, Kansas, Mississippi, New Mexico, Oklahoma, and Pennsylvania.

4(a)). Kansas' statute requires that charter schools include criteria for student admission, although it offers no guidance in that regard (Kans. Rev. Stat. § 72-1906(8)(1998)). Oklahoma's statute includes no specific provision other than that the charter school must include admission policies and procedures (Oklahoma Stat. §70-3-135(A)(2)).

Limitations on Student Admission

Eleven (30.56 percent) states[8] allow charter schools to place limitations on student admission to their schools. These limitations include age, grade level, areas of focus of the school, and lottery, as presented in Table 2.1.

Table 2.1. Number and Percentage of States With Provisions Limiting Student Admission

Limitation	Number of States	Percentage*
Age	6	17
Grade Level	10	28
School's Area of Focus	6	17
Lottery	1	03

* Percentages have been rounded to the nearest whole number; they will not total 100 percent, as several states have statutory provisions in more than one area.

Six states' charter school statutes allow charter schools to limit admission by age,[9] while 10 statutes provide for limiting admission based upon grade level.[10] Six states' statutes provide that charter school admission may be limited based upon areas of focus of the school.[11] Alaska and New Hampshire allow student admission to be limited based on age, grade level and school focus. Alaska's statute specifically provides that charter schools may be designed to serve students within an age group or grade level; students who will benefit from a particular teaching method or curriculum; or nonresident

[8] These states are Alaska, Connecticut, Delaware, District of Columbia, Louisiana, Massachusetts, Minnesota, Missouri, New Hampshire, New Jersey, and Oregon.
[9] These states are Alaska, Delaware, Minnesota, Missouri, New Hampshire, and Oregon.

students, including providing domiciliary services for students who need those services, if approved by the board (Alaska Stat. §14.03.265(a)). Charter schools in New Hampshire may establish maximum enrollment as they deem appropriate. Students may also be selected on the basis of aptitude, academic achievement, or need, so long as such selection is directly related to the academic goals of the school (N.H. Rev. Stat. Title 15 @ 194-B:9 (1999)).

Delaware, Minnesota, Missouri and Oregon allow limitations based on age or grade level, while Connecticut, the District of Columbia and New Jersey allow for student admission to be limited on the basis of grade level and school focus. In the District of Columbia, charter petitions must include a description of the admission policies and procedures (D.C. Code, Ch. 28 § 31-2812(a)(13)); and limits to admission must be consistent with the school's charter (D.C. Code, Ch. 28 §31-2817(a)-(b)). Louisiana's statute allows for the inclusion of specific requirements related to the school's mission (La. Rev. Stat. Title 17 §3991(B)(3)). Only Delaware's statute provides that student admissions may be restricted by lottery in the case of over-enrollment (Del. Unann., Ch. 5 §506(3)(b)(1999)).

Statutory Provisions Requiring The Admission of All Students

Nine states (25 percent) require that a charter school must admit all students who submit a timely application.[12] Alaska's charter school statute requires that all eligible students be admitted unless the number of applications exceeds the capacity of the

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[10] Ibid. in addition to Connecticut, District of Columbia, and New Jersey.
[11] These states are Alaska, Connecticut, District of Columbia, Louisiana, New Hampshire and New Jersey.
[12] These states are Alaska, Arizona, Colorado, Florida, Georgia, Louisiana, Minnesota, Missouri, and South Carolina.

program, class, grade level, or building (Alaska Stat. §§14.03.255(c)(3); 14.03.265(b)). Similarly, in Arizona, the only exception to this provision is if enrollment exceeds capacity (Ariz. Stat. §15-183(E)(7)). In Georgia, all students who submit a timely application must be admitted unless the number of applications exceeds the capacity of a program, class, grade level, or building (Ga. Official Code §20-2-2066 G (a)(1)). Likewise, in Louisiana, Minnesota, Missouri and South Carolina, enrollment is open to all students unless the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school building. (La. Rev. Stat. Title 17 §3991(C)(1)(a); Minn. Stat. 1998 §124D.10, Subd. 9(1)-(3); Mo. Rev. Stat., Ch. 160, §160.410.1 (1999); S.C. Code of Laws, Title 59, Ch. 40, §59-40-50(6)). In addition, South Carolina's statute specifies that a charter school cannot limit or deny admission or show preference in admission decisions to any individual or group of individuals (S.C. Code of Laws, Title 59, Ch. 40, §59-40-50(B)(7)). A student who is denied admission to a charter school may appeal the denial to the school board, whose decision is binding on both the student and the school (S.C. Code of Laws, title 59, Ch. 40, §59-40-50(C)(1)). In Colorado, admission is open to all students who reside within the school district (Colo. Rev. Stat. §22-30.5-104(3)). Although Florida's charter school statute does not specifically address admission policy or guidelines, all students are to have an equal chance of being admitted through a random selection process, and the school cannot violate anti-discrimination statutory provisions (Fla. Stat., Title XVI §228.056(6)(b)(1999)).

Statutory Provisions That Include Admission Preference Criteria

Fifteen (41.67 percent) states' statutes include admission preference criteria; i.e., preference to returning students, siblings of enrolled students, students who reside within the boundaries of the school district in which the charter school is located, students who reside in a specific geographic area, children of the initial members of the charter school's board of directors, children of charter school employees, students who reside in the attendance area or former attendance area of conversion schools, and at-risk students.

Two states, Arizona and New Jersey (5.56 percent), give admission preference to returning students. Five states (Arizona, Missouri, New Jersey, North Carolina, and South Carolina – 13.89 percent) give enrollment preference to siblings of enrolled students. Students who reside within the boundaries of the school district in which the school is located receive admission preference in seven states--Arizona, Colorado, Georgia, Missouri, New Hampshire, Oregon, and Virginia—(19.44 percent). In Arizona, enrollment preference may be granted to students who live within the boundary of the school district in which the charter school is located if the charter school is sponsored by that school district's governing board (Ariz. Stat. §15-184(A)). Georgia's statute provides that students who reside outside the school district in which the charter school is located may not enroll in the school except pursuant to a contractual agreement between the local boards of the school system in which the student resides and the school system in which the charter school is located. When this is the case, a charter school may give enrollment preference to a sibling of a nonresident student currently enrolled in the charter school (Ga. Official Code §20-2-2066 G(a)(2)). In New Hampshire, once a student has been admitted to a charter school, the student does not need to reapply for admission for

subsequent years unless the student has been expelled (N.H. Rev. Stat., Title 15 @194-B:2(VIII)(1999)).

Three states--Michigan, Minnesota, and Missouri—(8.33 percent) include a provision for admission preference to be given to students who reside in a geographic area other than the attendance area of the school district in which the charter school is located. Specific statutory provisions with regard to the designation of geographic boundaries are included in the discussion of the third research question. North Carolina's statute provides that admission preference may be given to children of the initial members of a charter school's board of directors only during the first year, so long as the number of these children does not exceed 10 percent of the school's total enrollment or 20 students, whichever is less; and the charter school is not a former public or private school (N.C. Gen. Stat. Part 6A §115C-238.29F(g)(5)). In addition to North and South Carolina, Missouri's statute includes a provision that admission preference may be given to children of charter school employees. In four states—California, Louisiana, North Carolina and Wisconsin--(11.11 percent), preference, in public schools that convert to charter schools, is given to students who reside in the attendance area or former attendance area of the converted school. Louisiana's statute not only provides that preference is given to students who are enrolled in the preexisting school, but also requires a procedure to ensure that students have ample opportunity to exercise the right for preferential admission (La. Rev. Stat. Title 17 §3991(C)(1)(c)(i)). Colorado is the only state whose statute provides for admission preference for at-risk students.

Statutory Provisions That Specify Admission Prohibitions

Fifteen states' statutes (41.67 percent) specify student admission criteria that are prohibited, including provisions that address student or parent residence, local pupil expenditures, discrimination, desegregation, intellectual or athletic ability, disability, achievement and other federally protected criteria. Two states--California and North Carolina—(5.56 percent) specify that student admission to charter schools cannot be determined according to a student's (parent's or guardian's) place of residence. North Carolina's statute also provides that admission cannot be determined according to the local school administrative unit in which a student resides (N.C. Gen. Stat., Part 6A §115C-238.29F(g)(4)). Six states—Colorado, Delaware, Louisiana, Massachusetts, Missouri, and New York—prohibit the use of discriminatory enrollment decisions. Delaware's statute provides that charter schools cannot discriminate against any student in the admissions process on the basis of race, creed, color, gender, handicap, or national origin (Del. Code Unann., §506(a)(4)-(5)(1999)). Similarly, Louisiana's statute prohibits discrimination on the basis of race, religion, gender, ethnicity, national origin, intelligence level as ascertained by an IQ exam, or identification as a child with an exceptionality (La. Rev. Stat. Title 17 §3991(B)(3)). Delaware's statute also includes a provision that a charter school cannot discriminate against a student who resides in a school district that has a per-student local expenditure lower than that for another student seeking admission. Both Delaware and Virginia prohibit charter schools from being formed as a means to circumvent a court-ordered desegregation order. Six states (District of Columbia, Massachusetts, Minnesota, New Jersey, New York and Texas—16.7 percent) prohibit discrimination in student admission on the basis of intellectual or

athletic ability. Likewise, four states (District of Columbia, Massachusetts, New Jersey and Wyoming--11.1 percent) provide that student admission to charter schools cannot be limited on the basis of measures of achievement or aptitude, financial status, or physical or mental disability. New Jersey's statute also specifically provides that a charter school cannot violate anti-discrimination statutory provisions.

Statutory Provisions That Require Admission Criteria

Twenty-one states (58.3 percent) require that charter schools include admission or enrollment policies or procedures.[13] Eight state statutes (22.2 percent) specify that admission policies or criteria must be included in the charter school application,[14] while one state's statute (Oregon) specifies that they be included in the charter school proposal. Five states (California, the District of Columbia, Idaho, Wisconsin and Wyoming – 13.9 percent) require that a charter school petition include admission or enrollment criteria or procedures; and seven (19.4 percent) require that this information be included in the school's charter.

Geographic Boundary Restrictions

The third research question asked if state charter school statutes require that charter schools designate geographic boundaries in their charters, and if they do, whether or not the statutes provide regulation or guidance regarding how designation of boundaries might be accomplished without violating equal protection rights.

[13] These states are Alaska, California, Colorado, Connecticut, District of Columbia, Idaho, Kansas, Louisiana, Michigan, Minnesota, New Jersey, New York, North Carolina, Oklahoma, Oregon, Rhode Island, Texas, Utah, Virginia, Wisconsin, Wyoming.

Twenty-one out of 36 states (58.3 percent) have no provision that addresses geographic boundaries. Although Colorado and North Carolina have no specific statutory provisions with regard to the establishment of geographic boundaries, the statutes do address the issue of geographic boundary designation indirectly in terms of admission preference. In Colorado, a majority of the charter school students must reside in the chartering school district or in the school district that is contiguous to it. The local school districts are authorized to grant charters, and charter schools remain accountable to the host district (Colo. Rev. Stat. § 22-30.5-104(2)). Therefore, the boundary of the charter school becomes that of the host district. Similarly, in North Carolina, public schools that convert to charter schools give admission preference to students who reside within the former attendance area of that school, thus indirectly creating a geographic boundary (N.C. Gen. Stat., Part 6A § 115C-238.29F(g)(3)). Although South Carolina statute does not specifically address geographic boundaries, it does provide that charter school enrollment cannot differ from the racial composition of the host district by more than 10 percent (S.C. Code of Laws, Title 59, Ch. 40 § 59-40-50(B)(6)).

Fifteen out of 36 states (41.67 percent) do have statutory provisions with regard to geographic boundaries. For purposes of analysis, these statutory provisions were divided into 11 segments, which were further sub-divided into four themes as indicated in Table 3.1.

[14] These states are Colorado, Connecticut, Michigan, New Jersey, New York, North Carolina, Rhode Island and Virginia.

Table 3.1. General Themes in Charter School Statutes Regarding Provisions for the Establishment of Geographic Boundaries

Theme	Statutory Provision
Designation of geographic boundaries is either required or at the discretion of the school.	(a) Open-enrollment charter schools must describe the geographic area to be served by the school (Texas – Tex. Educ. Code §12.111(13)). (b) Charters must include a description of the jurisdiction where eligible students will reside or otherwise be eligible to attend the public school in order to be eligible for admission to a charter school (La. Rev. Stat. Title 17 §3991 (B)(4)). (c) May establish geographic boundaries around the school whose students receive enrollment preference as long as it does not result in racial or economic isolation and conforms to established SBOE guidelines (Mo. Rev. Stat., Ch. 160, §160.410.1(1)(1999)). (d) Enrollment is open to all students who reside within the geographic boundaries, if any, of the authorizing body as described in statute (Mich. Rev. School Code, Act 451 of 1976, Ch. 380 §504(3)).
Geographic boundaries are defined by those of the host district, school attendance zone, city, town or the state.	(a) Preference is given to students who reside in the attendance zone of, or geographic boundaries served by the host district (Ca. Code § 47605(d); Ga. Official Code § 20-2-2066(a)(2); 105 Ill. Compiled Stat. 5/27A-4(d); NJ Permanent Stat., Title 18A § 18A:36A-8(a); Ore. Rev. Stat, Ch. 338 § 338.125(1)(1999); UT Code § 53A-1a-506(b)(ii); Wyo. Stat., Art. 2, Title 21 § 21-3-203(d)) (b) Preference is given to students who reside in the attendance zone of a school (Ariz. Stat. § 184.A) (c) Preference is given to students who reside in the city or town where the charter school is located (Mass. Gen. Laws, Ch. 71 § 89(m)) (d) Enrollment is open to all students who reside in the state who meet the admission policy (Mich. Compiled Laws, Act 451 of 1976, 380.504 § 504(3))

Table 3.1. General Themes in Charter School Statutes Regarding Provisions for the Establishment of Geographic Boundaries (Continued)

Theme	Statutory Provision
Boundaries must result in a reflection of the ethnic balance of the community.	(a) Must reflect racial/ethnic balance of the community served by the school or be within the racial/ethnic range of other public schools in the district in which the school is located (Fla. Stat., Title XVI, Ch. 228 § 228.056(9)(a)(8)) (b) May limit admission to residents of a specific geographic area where the percentage of the Caucasian population is less than the percentage of non-Caucasian population in the congressional district in which the geographic area is located, and as long as the school reflects the racial and ethnic diversity of the specific area (Minn. Stat. 1998 124D.10 Subd. 9(3)).
Boundaries are subject to the provisions of court-ordered desegregation, or cannot result in racial isolation/discrimination.	(a) Preference is given to students who reside in the district under court order of desegregation or other agreement to remediate racial discrimination (Ariz. Stat. § 15-184.D) (b) May establish geographic boundaries around the school whose students receive enrollment preference as long as it does not result in racial or economic isolation and conforms to established SBOE guidelines (Mo. Rev. Stat., Ch. 160, §160.410.1(1)(1999)).

Designation of Geographic Boundaries by the Charter School

In four states—Texas, Louisiana, Michigan and Missouri--(11.1 percent), the designation of geographic boundaries is either required or at the discretion of the school. For example, Texas' statute provides for three types of charter school configurations: home-rule charters, which is when a district charters all of its schools with voter approval; program, or campus, charters that are approved and held accountable by the local school board; and open-enrollment charter schools, which may cross school district lines and are approved by, and accountable to, the State Board of Education. Under Texas statute, geographic boundary restrictions are only addressed with respect to open-enrollment charter schools (Tex. Educ. Code § 12.111(13)). These schools must, in their

charter, describe the geographic area that will be served by the school. Similarly, Louisiana's charter school statute requires that a school's charter include a description of the jurisdiction where eligible students will reside or otherwise be eligible to attend public schools (La. Rev. Stat., Title 17 § 3994(B)(4)). Missouri's statute allows for the establishment of geographic boundaries around the school whose students receive enrollment preference as long as it does not result in racial or economic isolation and conforms to established State Board of Education guidelines (Mo. Rev. Stat.Ch. 160 § 160.410.1(1)(199)). In Michigan, geographic boundaries are established at the discretion of the authorizing body. However, if boundaries are established, charter school enrollment is open to all students who both reside with them and meet the admission policy guidelines. Admission is also open to all students who reside in the state, who meet the admission policy requirements (Mich. Rev. School Code, Act 451 of 1976, Ch. 380 § 504(3)).

Geographic Boundaries Defined by Entities Other Than the Charter School

The charter school statutes in 10 states—Arizona, California, Georgia, Illinois, Massachusetts, Michigan, New Jersey, Oregon, Utah, and Wyoming--(28 percent) provide that the geographic boundaries of a charter school are defined by those of the host school district, a school's attendance zone, the city, town or the state. For example, in seven states--California, Georgia, Illinois, New Jersey, Oregon, Utah, and Wyoming—(19.44 percent), enrollment preference is granted to students who live within the geographic boundaries of the host district. In Georgia, a student who resides outside the school district in which the charter school is located may not enroll in that school except

pursuant to a contractual agreement between the local boards of the school system in which the student resides and the school system in which the charter school is located. In these cases, the charter school may give enrollment preference to and enroll a sibling of a nonresident student currently enrolled in the charter school. Illinois' statute includes a 50-percent rule in that no more than 50 percent of the number of resident students enrolled in any one grade in a school district with only a single attendance center covering that grade may be enrolled in a charter school at one time. The local school board cannot require students who live within the geographic boundary of its district to enroll in a charter school. In New Jersey and Oregon, although preference is given to students who reside in the school district in which the charter school is located, students who live outside the district may enroll on a space-available basis. At least 80 percent of the students enrolled in a public charter school must be residents of the school district within which the public charter school is located. In Utah, when a public school converts to charter school status, preference may be given to a student who would have otherwise attended the school as a regular public school. The same is true in California and Wyoming, except that the school is required to adopt and maintain a policy giving preference to students who reside within the former attendance area of that public school. Alternatively, in Arizona, students who live within the attendance zone of the school, itself, receive preference. In Massachusetts, commonwealth charter schools appear to be different from the mainstream charter schools across the nation. Preference is given to students who reside in the city or town where the charter school located, while Michigan opens enrollment to all students who are state residents and who meet admission policy

requirements. Enrollment is also open to all students who reside within the geographic boundaries, if any, of the authorizing body.

Geographic Boundaries That Must Reflect the Racial or Ethnic Balance of the Community

Of particular interest to some commentators and policy makers is whether or not the charter school boundaries are required to reflect the ethnic balance of the surrounding community. The charter school statutes of two states (5.6 percent) address this issue. In Florida, a charter school may limit enrollment to target students who reside within a reasonable distance of the charter school, subject to a random lottery and to the racial/ethnic balance provisions (including federal) requiring that the charter school reflect the racial/ethnic balance of the community it serves or is within the racial/ethnic range of other public schools in the district in which the school is located. "Reasonable" is not defined. Minnesota takes a different approach in that charter school admission may be limited to students who reside in a specified geographic area where the percentage of the Caucasian population is less than that of the non-Caucasian population in the congressional district in which the geographic area is located. In addition, a charter school is required to reflect the racial and ethnic diversity of the specified area (Minn. Stat. § 124D.10, Subd. 9(3)(1998)).

Geographic Boundaries Subject to Desegregation Provisions

The charter school statutes of two states—Arizona and Missouri--(5.56 percent) stipulate that the geographic boundaries of charter schools must be subject to the provisions of court-ordered desegregation, or that they cannot result in racial isolation or

discrimination. In Arizona, preference is given to students who reside in a district under court order of desegregation or other agreement to remediate racial discrimination. The statute specifically requires that a charter school admit students who either reside in the attendance area of a school or who reside in a school district that is under a court order of desegregation or that is a party to an agreement with the U.S. Department of Education for Civil Rights directed toward remediating alleged or proven racial discrimination unless notice is received from the resident school that the admission would violate the court order or agreement (Ariz. Stat. § 15-184(A)).

Denial of Admission

The statutes were next analyzed to address the fourth research question, which asked if the statutes allow charter schools to deny admission to certain students. Four states' statutes, out of the 36 reviewed—New Hampshire, North Carolina, South Carolina and Texas--(11.11 percent), allow for the denial of admission to certain students. In New Hampshire and North Carolina, expelled students may be denied admission to charter schools. North Carolina's statute requires that the charter school application include the procedures by which students can be excluded from the charter school and returned to a public school, which appears more relevant to disciplinary options regarding suspension or expulsion rather than admission. However, the statute does not specify this (N.C. Gen. Stat., Part 6A § 115C-238.29B(b)(11)). Statutes for both New Hampshire and North Carolina appear to offer an opportunity for students who have been suspended or expelled to be considered for admission after the term for the suspension or expulsion has expired. North Carolina's statute provides an option, rather than a requirement, for the exclusion of suspended or expelled students, leaving the decision at the discretion of the

school. New Hampshire's statute also appears to make exclusion of expelled students an option for the school by providing that a school is not required to enroll students who are expelled. However, it appears that students who may have been expelled, but whose term of expulsion has expired, may enroll as could any other student. South Carolina's charter school statute gives a charter school the authority to refuse admission to students who have been suspended or expelled by a charter school, but does not make it a requirement. For open-enrollment charter schools, Texas' statute offers the exclusion of students who have a documented history of a criminal offense, a juvenile court adjudication, or discipline problems as specified in the statute regarding discipline as an option rather than a requirement. However, no provision is made for the exclusion of certain students for district or campus-based charter schools.

When Enrollment Capacity Has Been Reached

The focus was then turned to whether or not there are requirements or guidelines in U.S. charter school statutes for the establishment of waiting lists; specifically with regard to what happens in the event that the number of qualified applicants to a charter school exceeds capacity. For the purpose of analysis, the statutory provisions for this question were divided into three major categories: statutes that (1) contain no specific provision to address oversubscription of charter schools, (2) require the use of a lottery or other random process, and (3) in addition to a lottery, provide for the use of specified selection preferences. The third category was further divided into five sub-categories of selection preference: (1) siblings of a student selected through a random process, (2) currently enrolled students and their siblings, (3) students who reside in the school's attendance zone, (4) students who are state residents, and (5) returning students.

Thirteen of the 36 statutes reviewed (36.1 percent) contain no provisions that address what happens if enrollment exceeds capacity. The majority of the states[15] (23 states - 63.9 percent) address this area in various ways, ranging from providing additional space and faculty to the development of a process for randomly selecting from among qualified applicants.

Alaska is the only state whose charter school statute specifies that in the event of an excess of timely applications, the charter school and the local school board will make attempts to accommodate all of the excess applicants by considering providing additional classroom space and assigning additional teachers from the school district to the charter school. If these attempts cannot accommodate all eligible students who submit a timely application, students are accepted via random drawing (AK Stat. § 14.03.265(b)). The remaining states whose charter school statutes address this area employ the use of a lottery or other random selection process to choose from among qualified applicants. Kansas' statute requires that charters include a description of the lottery method that the school will use (Kan. Rev. Stat. § 72-1906(8)(1998)). In Louisiana, the lottery must be conducted so as to assure that, if the charter school is a type 1 or 2 school (that is, a new school or a school created as the result of a conversion), the percentage of the total number of at-risk students enrolled (as of the October first pupil membership) is not less than 85 percent of the average percentage of students enrolled in the local public school districts from which the charter school enrolls its students, who are eligible to participate in the federal free and reduced lunch program. Although Missouri's statute does not specify a lottery, it does require a charter school to have an admissions process that

[15] These states are Alaska, Arizona, Connecticut, Delaware, the District of Columbia, Georgia, Idaho, Illinois, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New

ensures that all applicants have an equal opportunity for gaining admission to the charter school, with exception to the geographic restriction and preference given to siblings of students currently attending the school as well as students whose parents are employed by the charter school (Mo. Rev. Stat., Ch. 160 § 160.410.1 (1999)). In New Hampshire, charter schools must not only utilize a lottery system to select from among qualified applicants if the number of applicants exceeds capacity, but the statute also provides for the involvement of the host school district in addressing the overflow of qualified applicants. If the number of otherwise eligible applicants to charters that are located inside and outside of the school district exceeds that district's published maximum percentage of students authorized to attend the school, the district will use lottery selection as a basis for student eligibility (N.H. Rev. Stat Ann., Title 15 @194-B:9(1)(c)(2) – (3)(1999)). Virginia is the only state whose statute specifically stipulates that a waiting list will be established if adequate space is not available to accommodate all students whose parents have requested to be entered into the lottery process. It further provides that the waiting list will be prioritized through a lottery process and parents will be informed of their student's position on the list (Va. Stat. § 22.1-212.6A)).

In addition to the lottery, some charter school statutes allow preference to be given under specified circumstances. For example, Massachusetts' statute allows preference to be given to students who reside in the city or town in which the charter school is located and to siblings of students currently enrolled in the charter school. The statute also provides that if the total number of students who are eligible to attend and apply to a charter school is greater than the number of available spaces, the admissions lottery is employed, including all eligible students applying, to fill all of the spaces in that

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Jersey, New York, North Carolina, Oregon, South Carolina, Utah, and Virginia.
Carrie Y. Barron Ausbrooks, Ph.D.

school (Mass. Gen. Laws, Ch. 71 § 89(n)). Michigan's statute provides that preference be given to returning students unless the appropriate grade is not offered at the public school academy (Mich. Rev. School Code, Act 451 of 1976, Ch. 380, Part 6A § 504(3)).[16]

Three states of the 36 states reviewed—Arizona, Connecticut, and Idaho--(8.33 percent) allow charter schools to give preference to siblings of a student who is selected through a random process when the number of applicants exceeds capacity. Seven states—the District of Columbia, Georgia, Idaho, Illinois, Michigan, New York, and Oregon--(19.44 percent) allow preference to be given to students and their siblings who are currently enrolled in the school; three—the District of Columbia, Georgia and New York—(8.33 percent) allow schools to give preference to students who reside in the school's attendance zone; one state—the District of Columbia--(2.78 percent) allows preference to be given to state residents; and five states—Idaho, Illinois, Michigan, New York and Oregon--(13.89 percent) provide for preference to be given to students returning to the school. However, in Illinois, students who have been expelled are not given preference, even if they were enrolled in the charter school the previous year (105 Ill. Compiled Stat. 5/27A-4(h)).

Student Transportation

Next, the charter school statutes were analyzed to address the sixth research question, which asked if charter schools are required to provide free transportation to students who attend them. More than half of the 36 states reviewed (20 states - 55.56

[16] In Michigan, charter schools are referred to as public school academies [Mich. Rev. School Code, Act 451 of 1976, Part 6A §380.501(1)].

percent)[17] include a provision to address student transportation in their charter school statutes. However, the provisions regarding transportation differ among the twenty states. Some statutes require that charter schools provide student transportation, while others don't require it of charter schools at all. Still other state statutes allocate funding to charter schools for transportation, and others provide for reduced fares or transportation assistance to students. Still other statutes leave student transportation to the discretion of the charter school but require that the school include a description of how it will meet student transportation needs, including how the transportation needs of students who qualify for free and reduced lunch will be addressed.

Statutory Provisions That Require Charter Schools to Provide Student Transportation

The charter school statutes for seven states—Florida, Oregon, Kansas, Massachusetts, New Hampshire, New Jersey and Texas—(19.44 percent) require that charter schools provide student transportation, four of which state that it must be provided to the same extent as other public schools or district schools (Massachusetts, New Hampshire, New Jersey and Texas). In Oregon, charter schools are responsible for providing transportation to students who reside within the school district and who attend the charter schools. The charter school may, however, choose to negotiate with a school district for the provision of transportation to students attending the charter school. Notwithstanding the aforementioned provision, the school district within which the charter school is located is responsible for the transportation of students attending the charter school in the same manner as students attending nonchartered public schools if

[17] These states are Arizona, Colorado, Delaware, the District of Columbia, Florida, Idaho, Illinois, Kansas, Oregon, Massachusetts, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, South Carolina, Texas, and Virginia.

the student is a resident of the school district. However, a school district may not be required to add or extend existing bus routes or other transportation services (Oreg. Rev. Stat. § 338.145(1)(1999)).

In Massachusetts and New Hampshire, the host district is responsible for providing transportation to students who reside in the school district in which the charter school is located on the same terms and conditions as that provided to students who attend other public schools within that district (Mass. Gen. Laws, Ch. 71 § 89(ff). New Hampshire's statute further provides that any additional costs for such transportation are borne by the charter school (N.H. Rev. Stat. Ann., Title XV, Ch. 194-B @ 194-B:2 (IX)).

One state (2.78 percent), Kansas, requires that transportation be provided for students who qualify for free meals under the national school lunch act and who live two and one-half or more miles from the school. Further, the board may decide to provide transportation for all students who attend the school (Kans. Rev. Stat. § 72-1908 (1998)).

Statutory Provisions for Funding Assistance to Charter Schools

Three states—Arizona, Idaho and Missouri--(8.33 percent) allocate funds to charter schools for the provision of student transportation or provide that charter schools are eligible for state aid for transportation. In Arizona and Idaho, funds are allocated to charter schools in order that they may provide student transportation (Ariz. Stat. §§ 15-185(A)(3)(b); 15-185 (B)(3); ID Stat., Title 33, Ch. 52 § 33-5208(4)). In Missouri, charter schools are eligible for state aid for transportation. A charter school may contract with the local school district or any other entity for the provision of transportation to students who attend the charter school (Mo. Rev. Stat., Ch. 160 § 160.415.6(1999)).

Statutory Provisions for Student Transportation Assistance

Two states' charter school statutes provide for transportation assistance to students. The District of Columbia's charter school statute provides that charter school students are eligible for reduced fares in the public transit system. These fares are on the same terms and conditions as for students who attend D.C. public schools (D.C. Code, Ch. 28 § 31-2853.18)). Delaware's statute provides that a student is entitled to transportation assistance as is made available to students pursuant to a public school choice program as long as the student meets the eligibility requirements for transportation assistance (Del. Code Unann. Ch 5 § 508(1999)).

Statutory Provisions That Leave Student Transportation to the Discretion of the Charter School

Nine states—Colorado, Delaware, Illinois, Minnesota, New Mexico, Nevada, North Carolina, South Carolina, and Virginia--(25 percent) leave student transportation to the discretion of the charter school. In five states—Colorado, Illinois, New Mexico, South Carolina and Virginia--(13.89 percent), the charter school statute provides that charter schools must include a description of how the school plans to meet the transportation needs of its students. Two of the five states (Colorado and Illinois) leave the provision of student transportation to the discretion of the charter school. However, Colorado's statute provides that if the school elects to provide student transportation, a plan for addressing the transportation needs of low-income and academically low-achieving students must be in place (Colo. Rev. Stat. § 22-30.5-106(k)), whereby Illinois' statute requires that a plan be in place for addressing the needs of low-income and at-risk

students (105 Ill. Compiled Stat. 5/27A-7(a)(13)). Although Delaware's statute does not require that a school's charter include a transportation plan, it does leave student transportation to the discretion of the charter school. The school may request that the school district in which the charter is located transport the students who reside in that district to and from the charter school on the same basis as students who attend schools operated by that district. Alternatively, the charter school may elect to receive from the state payment equal to the average cost per student of transportation within the vocational district in which the charter school is located and become responsible for the transportation of those students to and from the charter school (Del. Code Unann., Ch. 5 § 508 (1999)).

Three states—New Mexico, Nevada and North Carolina--(8.33 percent) do not require that charter schools provide transportation for their students. In Minnesota, a charter school may, however, elect to provide transportation even though it is not required. If the charter school elects not to provide transportation, transportation for its students must be provided by the district in which the school is located (Minn. Stat § 124D.10, Subd. 16(a)-(c)(1998)). Nevada also leaves the provision of student transportation to the discretion of the charter school. However, if they elect to do so, the application must include the proposed transportation plan. If transportation will not be provided, the application must include a statement that the charter school will work with the parents and guardians of students enrolled in the charter school to develop a plan for transportation to ensure that students have access to transportation to and from the charter school (Nev. Rev. Stat. § 386.520(2)(1)(1998)). In North Carolina, provision of student transportation is discretionary. However, charter schools are not required to provide

transportation to students who reside within one and one-half miles of the school. Charter schools must develop a transportation plan to ensure that transportation is not a barrier to any student who resides in the local school district in which the school is located. If the school district within which the charter school is located operates a school bus system, the charter school may contract with the district to provide transportation, in accordance with the charter school's transportation plan, to students who reside in the local school district and who reside at least one and one-half miles from the charter school. The school district may charge a reasonable fee to cover the cost of providing the transportation and may refuse to provide transportation if it demonstrates that there is no available space on buses it intends to operate during the term of the contract, or it would not be practically feasible to provide this transportation (N.C. Gen. Stat., Part 6A § 115D-238.29F(h)). Sixteen states' statutes (44.4 percent) have no provision that addresses student transportation.

Family Access to Information About Charter Schools and the Educational Opportunities Offered

The final research question was whether or not statutory guidance is provided to ensure that all families have access to information about charter schools and the educational opportunities provided. Twenty-six out of the 36 (72.22 percent) statutes reviewed do not address the issue of providing families access to charter school information. The provisions for the 27.78 percent (10 states) that remain were grouped into states that (1) require that school districts not discriminate against charter schools in disseminating school information, (2) hold charter schools responsible for the

dissemination of information, (3) hold other entities responsible for ensuring that information about charter schools is disseminated to the public, and (4) require that both charter schools and other entities are responsible for disseminating charter school information.

In Colorado, the local school district grants charters to successful applicants. Therefore, a charter school operates within the school district that grants its charter and is accountable to the local board of education of that district (Colo. Rev. Stat. § 22-30.5-104(2)). The statute provides that a school district cannot discriminate against a charter school in publicizing the district's educational options through advertising, direct mail, availability of mailing lists, or other informational activities, so long as the charter school pays for its share of the publicity cost (Colo. Rev. Stat. § 22-30.5-109(6)).

Information Dissemination by Charter Schools

In Michigan and Pennsylvania, charter schools are responsible for disseminating information to the public about themselves. The Michigan statute requires that charter school applications include a description of how the applicant will provide adequate notice that a charter school (i.e., a public school academy) is being created and adequate information about the admission policy criteria and process to the general public (Mich. Rev. School Code, Act 451 of 1976, Ch. 380 § 502(3)(iii)). In Pennsylvania, charter schools (as with school districts) are required to adopt policies to assure that parents or guardians have access to information about the curriculum, including academic standards to be achieved, instructional materials and assessment techniques (22 Pa. Code § 4.4(d)(i)).

Information Dissemination by Entities Other Than the Charter School

In four states (Delaware, Florida, Nevada and North Carolina), entities other than the charter school are held responsible for the dissemination of public information about the charter school. Delaware's statute provides that the Department of Education disseminate information about the availability of a charter school, including a description of the application process, to each school district and public post-secondary education institution, and through press releases to each major newspaper in the state (Del. Code Unann. § 510 (1999)). Similarly, Florida's statute requires the Department of Education to disseminate information to the public regarding how to enroll in charter schools, but it also must provide information about how to form and operate a charter school (Fla. Stat., Title XVI § 228.056(18)(1999)). Nevada's statute provides that both the education department and the board of trustees are responsible for disseminating information to the public regarding the formation and operation of charter schools, when requested, including the maintenance of a list for public inspection that describes the location of each charter school (Nev. Rev. Stat. § 386.545(1)(2)(1999)). However, it is the duty of the State Board of Education to make information available concerning the formation and operation of charter schools in the state to students and their parents or guardians, teachers and other educational personnel, and members of the general public (Nev. Rev. Stat. § 386.547(2)(1999)). North Carolina's statute requires that information announcing the availability of the charter school process be disseminated to each local school administrative unit and public postsecondary educational institutions and, through press releases, to each major newspaper in the state (N.C. Gen. Stat., Part 6A § 115C-238.29(a))

Collaborative Information Dissemination

In other cases, information dissemination is the joint responsibility of charter schools and other entities. In Minnesota, the charter school sponsor, the operators and the Department of Children, Families, and Learning must disseminate information to the public on how to form and operate a charter school as well as how to utilize charter school offerings. Minnesota's statute also specifies groups for targeting, which includes low-income families and communities, and students of color (Minn. Stat. § 124D, Subd. 19 (1998)). In New Hampshire, charter schools must make information about their curriculum and policies available to all persons, including parents and students considering enrollment in the school (N.H. Rev. Stat., Title XV, Ch. 194-B @ 194-B:2 (VI)(1999)). However, the State Board of Education is responsible for disseminating information to the public regarding ways to form, convert and operate a charter school (N.H. Rev. Stat., Title XV, Ch.194-B @ 194-B:17(III)(1999)). Connecticut is the only state that requires that charter school admission criteria and procedures must ensure effective public information. However, no guidance is included as to how it should be accomplished or how effectiveness is to be measured (Conn. Gen. Assembly § 10-66bb(d)(1999)).

Summary of Findings

Facilitating Educational Access to Underrepresented Student Groups

The overwhelming majority (34 states—94.44 percent) of charter school statutes provide regulation or guidance for ensuring that underrepresented student groups have access to charter schools. Some states' statutes provide regulation and guidance to a greater extent than others. Twelve states (33.33 percent) include statutory provisions that

require that charter schools comply with federal and state anti-discrimination and civil rights regulations, while 17 (47.22 percent) include prohibitions with regard to discrimination in charter school admission. A small percentage of statutes (three states—8.33 percent) specifically prohibit charter schools from being elitist or fostering segregation. Thirteen states' statutes (36.11 percent) include a requirement that the charter school student population reflect the racial or socio-economic composition of the school district in which the charter school is located, or that efforts must be made to ensure student diversity, while three states (8.33 percent) include statutory provisions to ensure range and diversity among charter schools. Ten states (27.8 percent) include provisions prohibiting discrimination based upon academic/intellectual ability or athletic ability. Only one state (2.78 percent) includes statutory provisions with regard to the dissemination of information to parents and students of underrepresented groups about charter schools and the educational opportunities they provide; and only one includes provisions that address the transportation needs of students who are members of underrepresented groups. Thirteen states (36.11 percent) include statutory provisions to address the needs of at-risk students or students in special circumstances, while only two states of the 36 reviewed (5.56 percent) include no specific provisions in this area.

Admission Policy Guidelines and Requirements

Almost one-fourth (22.2 percent) of the U.S. charter school statutes reviewed contain no specific provision with regard to admission or enrollment policies. One-fourth of the states' statutes contain no specific statutory requirement that the admission policy be stated in the charter, petition or application. Although a quarter of all states require

that a charter school admit all students who submit a timely application, almost one-third permit charter schools to limit student admission based on age, grade level, the school's area of focus or lottery (in the case of overenrollment). Less than half (41.67 percent) of the statutes include admission preference criteria specifically granting preference to returning students, siblings of enrolled students, students who reside within the boundaries of the school district in which the charter school is located, students who reside in a specific geographic area, children of the initial members of the charter school's board of directors, children of charter school employees, students who reside in the attendance area or former attendance area of conversion schools, and at-risk students. Less than half (41.67 percent) of the charter school statutes specify student admission criteria that are prohibited, including selection based upon student or parent residence, local pupil expenditures, discrimination, desegregation, intellectual or athletic ability, disability, achievement and other federally protected criteria. None of the statutes reviewed provide regulations or guidelines for how admission policies should be developed, but all contain at least minimal provisions for what admission policies should include.

Geographic Boundary Requirements and Restrictions

Table 8.1 summarizes the findings with regard to statutory provisions for the establishment of geographic boundaries by charter schools. Slightly more than three-eighths (15 statutes) of the 36 U.S. charter school statutes reviewed include provisions that address the issue of geographic boundaries. More than one-half of them contain no

Table 8.1. Summary Table of Statutory Provisions Regarding Geographic Boundaries

Geographic Boundary Provision	Number of States	Percentage*
Required or at the discretion of the school.	4	11
Defined by those of the host school district.	7	19
Defined by a school's attendance zone.	1	3
Defined by the city or town in which the school is located.	1	3
Defined by the state in which the school is located.	1	3
Must reflect the ethnic balance of the community.	2	6
Subject to the provisions of court-ordered desegregation.	1	3
Cannot result in racial or economic isolation.	1	3
No specific provision regarding geographic boundaries	21	58

* Percentages total more than 100 because three states' statutes (Missouri, Michigan, and Arizona) address two categories, while all other states address only one of the categories used. Percentages have been rounded to the nearest whole number.

provision to address this issue. Slightly less than one-fourth define the geographic boundaries of charter schools by those of the host district in which the school is located. Slightly more than ten percent of the statutes reviewed either require geographic boundaries or place their designation at the discretion of the charter school. Ten percent (four states) address ethnic, racial or socio-economic balance with respect to the establishment of geographic boundaries. None of the statutes provide regulation or guidance as to how the designation of geographic boundaries might be accomplished without violating equal protection rights.

Denial of Requests for Admission for Certain Students

Only four statutes provide for the denial of charter school admission to certain students. None of the statutes deny charter school access to students on the basis of race,

ethnicity, creed, color, national origin, gender, age, socio-economic status, or other federally-protected civil rights, or otherwise discriminatory criteria. The only bases for exclusion include suspension, expulsion, documented history of criminal offense, juvenile court adjudication, or discipline problems specified in statute.

Making Admission Decisions When Enrollment Capacity Has Been Reached

The majority (23 states – 63.89 percent) of the statutes reviewed contain some guidance for addressing oversubscription of charter schools, although only one state (Virginia) stipulates the establishment of a waiting list. Table 8.2 depicts the number and percentage of states with statutory provisions that address oversubscription of charter schools.

Table 8.2. Number and Percentage* of States With Statutory Provisions to Address Oversubscription of Charter Schools (N=36)

Only Lottery or Other Random Process		Lottery in Addition to Specified Preferences		No Statutory Provision	
9	25%	14	39%	13	36%

* Percentages have been rounded to the nearest whole number.

In all of these statutes, this provision includes the use of a lottery or other random selection process. More than one-third (14 states) provide for preference to be given under specified circumstances, including giving preference to siblings of students selected through the random process, currently enrolled students and their siblings, students who reside in the school's attendance zone, state residents and returning students. Table 8.3 includes the numbers and percentages of states that provide for these preferences. In addition to the use of a random selection process, one state also allows

Table 8.3. Number and Percentage of States That Provide for Oversubscription Preferences**

Preference Criteria	Siblings of a student selected through a random process		Currently enrolled students and their siblings		Students who reside in the school's attendance zone		Students who are state residents		Returning students	
Number/ Percentage	3	8%	7	19%	3	8%	1	3%	5	14%

** Percentages have been rounded to the nearest whole number. They do not total 100 percent, as seven of the nine states that provide for the use of preference criteria in addition to a lottery or other random selection process include more than one of these preference criteria.

for collaboration between the charter school and the host district in providing additional space and faculty in order to accommodate an excess of qualified applicants. Thirteen states' statutes (36.1 percent) contain no provisions that address what happens if enrollment exceeds capacity.

Student Transportation Guidelines and Requirements

More than half of the 36 state charter school statutes reviewed (20 states – 55.6 percent) contain provisions that address student transportation. Of those twenty states, nine (16.67 percent) require that transportation be provided; one (2.78 percent) requires that it be provided for low-income students; and nine (25 percent) provide that student transportation is at the discretion of the charter school. State funding assistance is provided for charter schools in three states (8.33 percent), and two states (5.56 percent) provide for transportation assistance to students. Two states' statutes (5.56 percent) include a requirement that charter schools describe their plan for providing transportation to students to attend them, as well as their plan for meeting the transportation needs of low-income, at-risk or low-achieving students. For three states (8.33 percent), although

student transportation is addressed in the charter school statute, it is not required. Slightly less than half of the 36 statutes (16 states - 44.4 percent) reviewed do not contain a provision for student transportation.

Charter School Information Dissemination Policy Guidelines and Requirements

The majority (26 states – 72 percent) of states do not include in their charter school statutes any provisions for ensuring that all families have access to information about charter schools and their offerings. Only 10 states (28 percent) include such a provision. Of these states, four (11.1 percent) require that entities other than the charter school (i.e., the Department of Education or the State Board of Education) disseminate information about the school. Four states either place the responsibility with the charter school itself, or with the school in cooperation with other entities. One state (2.78 percent) prohibits local school districts from discriminating against the charter schools in publicizing the district's educational offerings. One other state (2.78 percent) requires that charter schools' admission criteria and procedures ensure effective public information, although it does not include how effectiveness may be measured. The kinds of information to be disseminated, as required by the states whose statutes contain this provision, include: application and enrollment processes, admission policy and process, academic standards, curriculum and policies, instructional materials, assessment methods, charter school availability, how to form and operate a charter school, how to convert to charter school status, and how to utilize charter school offerings.

DISCUSSION AND CONCLUSIONS

The Tenth Amendment to the U.S. Constitution reserves education to the states. Therefore, states play a crucial role in providing statutory guidance to local district schools, for this is where they derive policy direction, as well as a sense of the national interest. As public schools and agents of the state, charter schools are subject to federal and state civil rights laws and regulations. Therefore, one would expect to find that virtually all U.S. charter school statutes include at least a provision prohibiting charter schools from discriminating on the basis of race, ethnicity, national origin, or other such criteria as indicated in state and federal law. One would also expect that certain students would not be refused access by any means, including admission criteria, geographic restrictions, or lack of transportation or information. The reality is that U.S. demographic patterns are changing, especially in terms of the rapidly growing proportion of the non-Caucasian population; and policymakers are now recognizing women and minorities as the major untapped resource in this country. The strength of our nation depends upon an educated population. Hence, it is in the best interest of the nation to ensure that "the forthcoming disadvantaged majority" is superbly educated (Blackburn and Lawrence, 1995, pp. 43-44). Toward that end, the present imbalances must be eradicated such that no child is left out, particularly children of color. So, to what extent is equality of student access to charter schools being supported in U.S. charter school statutes?

The findings suggest that states' statutes do an adequate job of ensuring that underrepresented groups have access to charter schools and that students' civil rights are not violated by charter schools. States are clearly concerned about violations of students' civil rights, which mirrors the U.S. government's interest in eradicating racial discrimination (O'Neill, 1999, p. 226). This concern is evidenced by the fact that virtually all, save two, of the 36 statutes reviewed contain some provision with regard to ensuring that underrepresented groups, such as economically disadvantaged, minority and special needs students have the same access as other students to charter schools and the

educational opportunities they provide. Virtually all states require that charter schools comply with federal and state civil rights laws, and virtually all provide that charter schools cannot discriminate on the basis of race, creed, color, national origin and other such criteria. States are concerned about equity of access to charter schools if for no other reason than the fear of the consequences for failure to comply with state and federal regulations, including loss of federal funding. Lack of adequate financial resources is reported as being a substantial obstacle for charter schools, especially at the outset. Therefore, as federally- and state-funded entities, and as agents of their respective states, charter schools should also be concerned since they, too, risk loss of funding for failing to address the needs of any student group for which they are responsible.

This study revealed three areas that warrant attention: admission policies and practices, geographic boundary restrictions, and dissemination of charter school information. Research also supports the need for concern for ensuring equality of student access in these areas. For example, some researchers have found a strong correlation between poverty and race indicating that in urban centers, racial isolation is compounded by socioeconomic class isolation (Betsy Levin, 1999, p. 274). Other studies have found that students who attend heavily segregated minority schools are much more likely to be in high poverty schools than students who attend schools whose populations comprise less than 10 percent black and Latino students. The trend toward racial and economic isolation is predicted to increase, especially among Latino students (Kemerer, 1998, p. 18). This concern is addressed in more than one-third of the statutes reviewed, which include provisions to ensure that racial and economic isolation do not occur as a result of the opening of a charter school or in the statutory provision of one state that stipulates that charter schools cannot be elitist.

More than three-fourths of U.S. charter school statutes include provisions as to what must be included in a charter school's admission policy. However, how the policies are developed is left to the discretion of charter schools. This allows charter schools

flexibility in the development of their policies to better serve the needs of their student populations. Alternatively, in a time when courts are granting unitary status to public school districts that have made good faith efforts to desegregate and relieving them of any further duty to integrate their schools (Clinchy, 2001) there is concern that some schools may remain segregated.

Few charter school statutes contain any provisions for denying (or restricting) charter school access to any group of students. Only four states have such a provision. However, these provisions only bar entry to students who have been expelled or suspended, or who have a history of criminal behavior; and the statutes are written so as to render the decision to deny access to these students discretionary. On the other hand, two states, in ensuring access to underrepresented student groups, give preference to charter school applicants who say they will serve student populations comprising at least 75 percent at-risk or similar students. One state allows for the creation of dedicated charter schools to serve students with severe disciplinary problems, and other states include statutory provisions that ensure that at-risk students are not left out. Although these states are not excluding students based upon federally protected or civil rights criteria, a question still remains: Does allowing for the exclusion of students with disciplinary problems; i.e., those who have been expelled or suspended, or who have a history of criminal behavior, limit educational opportunities for the very students for which many of these schools or programs were designed to serve? Furthermore, failure to provide transportation for students who do not otherwise have access to adequate means to get to the charter school may also systematically exclude students in certain groups from attending charter schools. Although more than half of the states include a provision for student transportation, they differ significantly.

The inclusion of geographic boundary restrictions is an area that is likely to invite litigation, specifically equal access challenges. A major concern is whether literal interpretation of geographic boundary provisions that ultimately result in limiting access

to students of a particular race or class renders moot the concepts of open-enrollment, open-access, and freedom of choice. Only two states require that charter schools designate geographic boundaries identifying the area they will serve. Statutes that allow for the designation of attendance zones as a means to determine the pool of charter school applicants do not seem to raise the same concerns as those that require that a charter school carve out the student population it wishes to serve. However, they may be shown to have a segregative effect whereby certain classes of students are inadvertently screened out of access to a charter school because of their choice of residence, thus limiting their choices within public education. Further, if the geographic area of a charter school is determined by the attendance zone of the school district in which the school is located, then the racial and economic makeup of its student population will likely reflect that of the host district. Hence, charter schools that are located in urban centers are likely to have a greater minority population than those located in suburban areas.

Some commentators believe that limiting the service area of the school to a specified geographic area will exacerbate racial clustering (Taebel, et al., 1998, p. 100). If the statutory requirement that charter schools designate a geographic area results in screening out minority students, charter schools will likely be left open for litigation for unconstitutional discrimination. "Even in the absence of a history of discrimination, a desegregation challenge in federal court likely will be successful if plaintiffs can show an intent to discriminate or if it can be shown that school choice has a disparate impact on minority groups without adequate justification" (Kemerer, 1998, p. 22). Requiring the designation of a specific geographic boundary to be served by the school may make it difficult to dispute intent to discriminate; and the existence of such a requirement may invite abuses. Also of note is that almost three-fourths of states have no provision in their charter school statutes for ensuring that information about charter schools is disseminated to the public. A lack of knowledge or information about charter schools will likely result

in limiting educational opportunities for some families who might otherwise avail themselves of this option.

Implications

This study raises some important issues with regard to ensuring equality of student access to charter schools. State laws provide the foundation, but it is at the local level that statutory provisions are implemented. Without appropriate direction, the full intent of the charter school legislation may not be realized through the policies and practices of individual charter schools at the local level. On the other hand, how much statutory guidance can be included without eroding charter school autonomy, thus undermining one of the underlying purposes of the charter school movement?

A caveat is in order here. Treating student groups as a collective creates serious distortions in perspective, which can ultimately impact policy development and implementation. There are numerous subgroups, within both the majority and minority populations, which differ substantially from one another in what they value and how they behave. Differences can include religious, political, social class and the like (Blackburn & Lawrence, 1995, p. 57). Therefore, it is a serious error to assume that all members of a racial, ethnic or cultural group want or need the same things. Broad policy that seeks to catch everyone in the net will likely be ineffective and may ultimately leave charter schools open to legal challenges.

Charter schools are still in their infancy; however, their numbers are rapidly increasing, making them an important component of the American public education landscape. Although there is speculation regarding their potential, much remains unknown as to their specific impact on American public schooling. The findings of this research inform the discussion on the status of equality of access to charter schools and contributes to the literature by extending the research on charter schools with respect to whether or not U.S. charter school laws, by providing regulation or guidance, foster

equality of student access to charter schools. Further, it will serve as a catalyst for the generation of critical policy and analytical questions in the area of educational equity, including how low-income and minority parents may be provided meaningful opportunities for exercising educational options for their children. Such information is crucial in reducing inherent inequalities in policy and practice regarding student access to charter and other schools of choice.

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